

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Lynn Willard, Member

Minutes Tuesday, August 18, 2015

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 18, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:30:03 AM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Pastor Hayden Smith.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,

Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

6. Approval of Minutes

- a. July 21, 2015 - Regular Commission Meeting
- b. July 27, 2015 - Special Commission Meeting

Motion: Approve the minutes of the July 21, 2015 Regular Meeting and the July 27, 2015 Special Commission Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending July 31, 2015
- c. Corrected Financial Report for Month ending June 30, 2015

- d. Annual Renewal of MOU between the Village of Ruidoso and the County of Lincoln as the Administrative Authority for Lincoln County Sheriff's Office for DWI Enforcement Activities and Reimbursement of Costs

Motion: Approve Consent Agenda Items 7(a), 7(b), and 7(c); Table Consent Agenda Item 7(d),
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Attorney Morel requested Item 7(d) be tabled pending further legal review of the Memorandum of Understanding.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT A: Copies of Consent Items are attached hereto in reference thereto made a part hereof.

Motion: Recess the Regular Meeting and convene the Board of Finance, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Stewart, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Board of Finance at 8:37:19 AM.

8. Board of Finance – County Treasurer

Beverly Calaway, Treasurer discussed the Treasurer's Report for the month ending June 30, 2015. Ms. Calaway presented revisions which reflected end of year corrections and budget adjustments adopted by Resolution 2015-07 during the July Regular Meeting. Ms. Calaway stated for the Fiscal Year 2014-2015 the Detail of Receipts reflected a collection rate of 150% for the General Fund accounts. Ms. Calaway reminded the collection rate of 105% was anticipated due to the County's conservative budgeting of revenues. Ms. Calaway noted the report also reflected continued strong collections of current and delinquent property taxes at 105% of the budget.

Ms. Calaway discussed the decline in Interest Earned as reflected by the 78% collection of budgeted funds. Ms. Calaway informed the rate of return on investments was a reflection of the overall decline in interest rates for investments including cash, certificates of deposits, and various government backed securities. Ms. Calaway reported only 64% of budgeted transfers in the General Fund and 78% of budgeted transfers from the Road Fund contributed to a solid beginning cash balance for the new fiscal year of \$8,095,646.76.

Ms. Calaway provided gross receipts tax charts reflecting three years of collections for the Detention Center Debt, Environmental, Indigent Health, and Business Retention Gross Receipts Taxes.

Ms. Calaway also discussed the Treasurers' Financial Report for the month ending July 2015 in the Fiscal Year 2015 – 2016. Ms. Calaway stated the report reflected total cash held by the Treasurer as of July 31, 2015 as \$17,063,435.93 and collection of \$27,280,991.50 or 96.29% of the 2014 total property taxes billed.

Ms. Calaway stated the New Mexico Property Tax Division (PTD) scheduled a delinquent property tax sale in Lincoln County for August 26, 2015. Ms. Calaway informed originally the delinquent list consisted of 118 properties but reported only 26 properties remained as of this date. Ms. Calaway stated the increased number of properties over prior year's sales resulted from PTD's failure to conduct complete sales in the past with several of these properties being as much as six years delinquent.

Ms. Calaway reminded the New Mexico Department of Finance was obligated to set Lincoln County's Property Tax Rates no later than September 1, 2015. Ms. Calaway further reminded within five days of receipt of the County's tax certificate the Board of Commissioners are required to meet and issue a written order to impose the 2015 property tax rates. Ms. Calaway stated

subsequent to adoption of the 2015 rates the Treasurer and Assessor would calculate and produce the 2015 Tax Schedule and Property Tax Bills for mailing no later than November 1, 2015.

Commissioner Stewart discussed the expiration of the Business Retention Gross Receipt Tax on December 31, 2015 reminding Lincoln County currently received any collections over \$750,000. Commissioner Stewart questioned the distribution of overage, asking if the last "large" distribution would occur in September of 2015 with three additional small disbursements in 2016. Ms. Calaway confirmed the primary distribution of these funds was typically received from the State in September.

Motion: Adjourn the Board of Finance and reconvene the Regular Meeting, **Action:** Adjourn, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Stewart, Commissioner Willard.

Chair Stone adjourned the Board of Finance Meeting and reconvened the Regular Meeting at 8:45:12 AM.

10. Forest, Land, and Natural Resources Matters:

a. Smokey Bear Ranger District

David Warnack, District Ranger discussed the benefits of a proposal to establish regular discussions in a working group environment between the USFS Ranger District and the Lincoln County Land and Natural Resources Advisory Committee (LANRAC). Ranger Warnack commented on potential opportunities to work with LANRAC on the Lincoln Forest Plan Revision and also address other planned projects. Ranger Warnack commented on the need to incorporate the County Land Use Plan information into the Forest Plan Revision. Ranger Warnack anticipated a need for the working group to meet quarterly to work on the forest plan revision and other land issues.

Ranger Warnack informed the Secure Rural Schools (SRS) funding was reauthorized by Congress and the Southern New Mexico Resource Advisory Committee would solicit proposals for expenditure of SRS Title II funds for roads, trails, and watershed projects this fall. Ranger Warnack requested Lincoln County provide input on potential projects. Ranger Warnack discussed the District's ongoing response to flooding on Forest Road 107 above Bonito Lake and stated the Forest Service would continue to research long term solutions.

Ranger Warnack discussed joint operations with the USDA Animal and Plant Health Inspection Service (APHIS) to eradicate feral pigs in Lincoln County. Ranger Warnack stated currently the District was working to secure approval to conduct feral pig eradication in the White Mountain Wilderness.

Ranger Warnack acknowledged the donation of a LED information sign from the Little Bear Fire Coalition through private donations to replace the older marquee sign in front of the Ranger Station.

Chair Stone questioned the timeline for the revision of the Environmental Assessment related to the spraying of herbicides for noxious weeds. Ranger Warnack stated the Forest Plan Revision would likely take four to five years but noted the spraying of noxious weeds was considered a "stand alone" project by the District. Ranger Warnack stated the Forest Supervisor recognized the severity of the problem and the refinement of the related Environmental Impact Study was a priority. Ranger Warnack anticipated a delay of approximately one year before authorization of any major spraying projects.

Chair Stone commented on his attendance at a recent meeting for the revision of the Cibola Forest Plan. Chair Stone questioned when regular meetings between cooperating agencies would occur for the Lincoln Forest Plan revision. Ranger Warnack stated the Lincoln Forest Plan revision was approximately two years behind the Cibola process but anticipated the Lincoln meetings would most likely begin next spring.

Commissioner Draper suggested inclusion of the two studies of the Upper Rio Hondo Basin conducted by the USGS in conjunction with Lincoln County in the Lincoln Forest Plan revision.

Ranger Warnack agreed the data from the watershed studies could prove beneficial to the Forest Plan revision.

Chair Stone reminded the agriculture industry lacked organizational standing except through the County Commission and the Soil and Water Conservation Districts. Chair Stone discussed the importance of agricultural use of forest lands and urged Ranger Warnack to include these entities as cooperating agencies.

Ms. Taylor provided details of a meeting with Ranger Warnack, District Wildlife Biologist Larry Cordova, District Range Conservationist George Douds, Chair Stone, Manager Taylor, EOC Director Joe Kenmore, and twelve local ranchers to discuss the proposed fencing project at Seven Cabins Spring. Ms. Taylor stated the original proposal to "fence spring source and associated wetland to restore habitat and water source" was the topic of extensive discussion. Subsequent to the discussion, Ranger David Warnack agreed to change the scope of work to consider a new concept involving a two year project to place pipelines and water storage to capture the entire water production of the spring. Ms. Taylor commended Ranger Warnack for his spirit of cooperation but reminded Ranger Warnack had maintained in certain circumstances fencing off a particular area was the proper solution.

b. Cibola National Forest

Ms. Taylor provided a copy of the Memorandum of Understanding with the Cibola National Forest as approved during the July Regular Meeting. Ms. Taylor reminded the MOU provided "a seat at the table" as a cooperating agency for the Cibola Forest Plan revision. Ms. Taylor informed she and Chair Stone attended one of four defined "Landscape Teams" meeting in Mountainair to provide input on behalf of Lincoln County.

c. Forest Health

Ms. Taylor reported on presentations from Debi Lee, Village of Ruidoso Manager about the Grindstone Dam Liner Project and Justin King, consultant for the City of Alamogordo regarding the status of Bonito Lake during the recent Forest Speaker Series sponsored by the Little Bear Forest Reform Coalition.

Rick Merrick with South Central Mountain Resource and Conservation District provided updates on the Wildland Urban Interface thinning projects and recent prescribed burns. Mr. Merrick reported total expenditures through the Lincoln County Cost Share program and the Non-Federal Lands grant amounted to \$480,000 paid to date to contractors in Lincoln County. Mr. Merrick stated South Central RC and D was now facilitating the Forest Speaker Series with plans for topics including ISO ratings, County Flood Plain updates, and other insurance related issues.

d. Water Issues

Office of the State Engineer: Ms. Taylor reported one new water right posting to the State Engineers website: Application T-511 POD 2 filed on July 20, 2015 by James and Mandy Denson and Dori Sullivan Gamble for Permit to Change Location of Well within the Tularosa Underground Water Basin in Lincoln County discontinuing the use of well T 511 at the current location and drilling a new well for the continued diversion of 15.0 acre feet per annum for irrigation and domestic purposes on 4.0 acres of land located .37 miles south of the intersection of State Highway 37 and Nogal Canyon Road. Applicant requested emergency authorization for the transfer.

USGS Studies of Water Quality in the Upper Rio Hondo Basin: Ms. Taylor reminded after receiving a presentation and final copy of the USGS multiyear studies conducted in Lincoln County, the Board of County Commissioners directed a letter be composed to forward with the studies to the Office of the State Engineer and to the New Mexico Institute of Mining and Technology. Ms. Taylor contacted Kelly Cassels, Attorney for Lincoln County in current water litigation, for assistance in preparing the letter. Mr. Cassels suggested the County partner with other clients he represents in concurrent cases including the Alto Lakes Water and Sanitation District and three landowners to issue a letter to accompany the studies. Ms. Taylor stated the

letter would address the impact of water rights transfers and water conditions in Lincoln County. Ms. Taylor discussed the cost associated with preparation of a letter and the potential to seek expert assistance. Ms. Taylor stated Mr. Cassels' other clients would contribute financially to towards costs.

Commissioner Stewart suggested the Manager draft a simple letter expressing "great concern" about the study results. Ms. Taylor expressed belief based on prior discussion that the Commissioners wished to highlight some specific concerns.

Commissioner Allen reminded former Commissioner Jackie Powell had voiced concerns about the definition and reference to streamflow as "perennial" versus the more accurate characterization of "torrential".

There was a general consensus to have the Manager prepare a simple letter of concern, to include remarks regarding the difference between "perennial" and "torrential" flow as well as the use of the "average" flows, and include a comment from former Commissioner Powell.

Motion: Appoint Chair Stone as Cooperator Program Contact and Manager Taylor as the Cooperator Administrative Contact for the Cibola Forest Plan Revision, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

13. 9:30 A.M.: Public Comment and Other Business from County Officials

Commissioner Draper reminded schools were back in session and requested drivers slow down and watch for children.

Commissioner Stewart commented on his participation in the Joint Land Use Study (JLUS) implementation committee meetings. Commissioner Stewart requested membership on the Noise and Airspace Committees as these were the most relevant to Lincoln County. Commissioner Stewart reported the Office of Economic Adjustment from the Department of Defense allocated \$640,000 for regional implementation of the plan. Commissioner Stewart reported he was keeping a diligent record of time and associated travel expenses for consideration as in kind services toward the \$5,000 contribution match due from Lincoln County.

Commissioner Willard discussed his attendance at the Mescalero Apache Telecom Inc. (MATI) reception meeting to begin a multimillion dollar broadband communications project. Commissioner Willard stated the project located on the Mescalero Reservation would in the future expand to Lincoln County.

Rhonda Burrows, County Clerk recognized Deputy Clerks Diane Shoemaker, Charlotte Emmons and Allysanne Huey for their recent milestone achievement of indexing and scanning all Lincoln County marriage licenses of record. Ms. Burrows discussed the efforts of the Clerk's office to fill in the gaps in the digital index with those records previously maintained on microfilm or in book form. Ms. Burrows stated Ms. Emmons previously scanned and indexed all County Probate Records and with the completion of Marriage Licenses, the Deputy Clerks were now working to index all Deeds. Ms. Burrows commended these employees for their dedication.

Barbara Yates of 101 Pine Knot Trail once again asked for assistance to address the problem of water runoff from a County Road through her property. Ms. Yates reported her home was sustaining damage and despite the ditching around her home she was unable to keep up with flooding. Ms. Yates stated her proposed solution would not damage other property owners. Ms. Yates presented statements from several professionals regarding potential damage from the runoff to septic systems and two proposals from landscape companies for alternate solutions. Ms. Yates stated no mitigation efforts were sustainable until the redirection of water was addressed.

Commissioner Stewart requested a copy of the disclosure statement provided at the time of property purchase. Ms. Yates discussed prior County action to replace a culvert and stated the seller had disclosed this action prior to sale. Commissioner Stewart suggested tax payer dollars required consideration of any notice on disclosure. Ms. Yates agreed to provide the disclosure

statement but maintained her assertion the source of the problem was the increased rainfall being directed through a County culvert.

Sherri Koehler, resident of Alto North encouraged the Board of County Commissioners to assist Ms. Yates with her drainage problem. Ms. Koehler stated her husband was past president of the Alto North Water Cooperative and he believed the installation of an additional culvert would resolve the issue.

Patsy Sanchez, resident of Carrizozo discussed the current accumulation of water during heavy rains on Highway 54 in front of the County Courthouse and on the opposite side in front of her real estate office. Ms. Sanchez discussed the recent Courthouse addition and the associated impact on water drainage and requested assistance from Lincoln County.

In additional comments Ms. Sanchez discussed the lack of steps to access bleachers at the Lincoln County Fairgrounds, requested funding to rewire the New Horizons building, and requested the Board of Commissioners take a "morally correct" stand against the proposed Iran Nuclear Agreement.

Ms. Taylor informed representatives of the NM Department of Transportation would attend the Regular Commission Meeting in September and also would schedule future community meetings to gather public input on the redesign of Highway 54.

Doris Cherry, speaking as a property owner and resident questioned whether property owners would receive prior notice of the spraying of poisons for noxious weeds. Ms. Cherry stated any spraying could affect her and others who cultivated organic gardens.

Chair Stone stated there were protocols in place to provide notification and protect organic gardens.

9. Lincoln County Cooperative Weed Management Area

a. Status/Update – Stephanie Bason, Upper Hondo Soil and Water Conservation District

Nita Taylor, County Manager reminded the Board of County Commissioners approved \$50,000 in the FY 2015-2015 Final Budget for the Lincoln County Cooperative Weed Management Area (LCCWMA) under the direction of the Upper Hondo Soil and Water Conservation District. Ms. Taylor stated the purpose of the organization was the provision of services consisting of application of suppressive materials to areas of invasive species within the boundaries of Lincoln County. Ms. Taylor reminded of recent discussion and concerns regarding the high level of noxious weeds due to increased rainfall this summer.

Stephanie Bason, LCCWMA Coordinator discussed considerations related to treatment of noxious weeds including weather, season, land owners, and locations of organic gardening. Ms. Bason informed there was a website titled "Drift Watch" sponsored by the Department of Agriculture and other agencies for beekeepers and organic gardeners to register locations of concern.

Ms. Bason provided a list of treatments during the past year as applied by commercial applicators. Ms. Bason discussed the documentation requirements for applications including date, type of product applied, amount applied, noxious weed species treated, and weather conditions. Ms. Bason stated LCCWMA targeted community facilities such as the Lincoln County Fairgrounds annually when possible. Ms. Bason provided a list of community facilities, County roads, and recreational areas treated during the last year. Ms. Bason commented on joint efforts conducted with the Village of Ruidoso Parks and Recreation Department. Ms. Bason stated LCCWMA had recently contracted with a commercial sprayer for future applications.

Chair Stone questioned if the municipalities provided financial assistance for LCCWMA. Ms. Bason stated the Village of Ruidoso did not provide direct funding but often provided herbicide.

Chair Stone expressed concern about the prolific presence of cockleburrs on County Roads and the effect of road work on spreading of seed.

Commissioner Willard questioned if there were insects which might control musk thistle.

Ms. Bason discussed the insect treatment and expressed belief the introduction was hampered by the presence of the Sacramento Mountain Thistle on the endangered species list. Ms. Bason suggested introduction of the beetle could prove useful and noted a Salt Cedar beetle was introduced in Lincoln County to assist with control.

Commissioner Willard requested Ms. Bason investigate the possibility of utilizing this method to assist with the control of musk thistle.

Attorney Morel expressed concerns about the proposed contract with LCCWMA as presented and suggested the contract should identify or include the Upper Hondo Soil and Water Conservation District (UHSWCD) which acts as the fiscal agent. Attorney Morel also suggested reporting requirements be clarified in the contract.

Ms. Bason reminded the LCCSWA was established in 2002 as a cooperative entity under several State and Federal Laws. Ms. Bason noted similar cooperatives in other states were established with taxing authority but in New Mexico the weed cooperatives did not have taxing authority.

Laura Johnson, Program Coordinator for the Upper Hondo SWCD stated the District had identified and was in process of contracting a vendor for herbicide applications under the State Procurement Code. Ms. Johnson stated additional reporting parameters were now in place to provide additional tracking information. Ms. Johnson stated Upper Hondo SWCD would require strict GPS reporting of applications from the vendor. Ms. Johnson stated reports would be submitted with any invoices for payment.

Attorney Morel requested direction on potential revisions to the Contract for Services and questioned if the contract was more appropriately between the County of Lincoln and the Upper Hondo Soil and Water Conservation District acting as the fiscal agent for LCCSWA.

Ms. Bason stated no objection to amending the contract but requested a review of the history to verify no obstructions. Ms. Bason reminded the district boundaries for the Upper Hondo SWCD were different from the district boundaries of the LCCSWA.

Commissioner Stewart suggested inclusion of the Upper Hondo SWCD as a signatory agency to the Contract for Services in addition to LCCSWA. Commissioner Stewart also suggested increased specificity of reporting requirements.

b. Entering into a Memorandum of Understanding

Attorney Morel also expressed concern about the Memorandum of Understanding stating Lincoln County was one of twenty seven agencies participating but noted there were only two signatures on the MOU.

Ms. Taylor questioned if the MOU was renewed every five years and questioned if LCCSWA had obtained signatures from the other agencies. Ms. Bason confirmed the MOU was renewed on a five year cycle and reported receipt of signed MOU's from six or seven of the other agencies to date. Ms. Bason agreed to provide copies of the MOU's received.

Motion: Direct the County Attorney and Manager to revise the contract to expedite the process,
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting at 10:46:17 AM and reconvened at 11:02:05 AM.

11. Approval of agreement between the County of Lincoln and Roper Construction, Inc. for construction of the Carrizozo Senior Center

Ms. Taylor reminded the bid for construction of the Carrizozo Senior Center was awarded during the July Regular Meeting to Roper Construction, Inc. Ms. Taylor stated the bid award included the base bid of \$929,000 plus \$10,000 for upgraded external lighting. Ms. Taylor stated Roper

Construction, Inc. had met preliminary requirements and the proposed agreement was reviewed by Alan Morel, County Attorney.

Attorney Morel expressed concern about a new State requirement to CDBG grant agreements requiring the County Attorney sign off and "personally guarantee" all bonds and other contractor requirements were adequately met. Attorney Morel objected to the State's requirement as onerous and burdensome to County Attorney's. Attorney Morel discussed the conditions of bond guarantee required before he would sign the agreement.

Motion: Approve the Agreement between the County of Lincoln and Roper Construction, Inc. subject to satisfaction of the Attorney's concerns, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Willard questioned the response of other County Attorney's to this requirement. Attorney Morel stated as this was a fairly new requirement, he had not yet had the opportunity to research other County Attorney responses. Ms. Taylor stated DFA responded to questions from Lincoln County regarding the requirement and informed to date all County's receiving CDBG grants had obtained the required attorney signature. Attorney Morel reported he would follow up with NMAC, Attorney's Affiliate and legislative representation.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

12. Approval of Lodger's Tax Applications and backup material:

Ms. Taylor stated the Lodger's Tax Committee met to consider two requests and approved Application 005 for consideration of award to the Ruidoso Valley Greeters in the amount of \$1,000. Ms. Taylor noted the Lodger's Tax Committee took no action on a second application submitted by Peter Renich and the Carizozo Chamber of Commerce due to a no show by the presenters.

- a. Application 005: Funding Request - \$2,000
Purpose: Christmas Jubilee
Date(s) of Event: November 13-15, 2015
Presenter: Linda McKinley/Ruidoso Valley Greeters

Motion: Approve Application 005 Ruidoso Valley Greeters for \$1,000, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Commissioner Draper recused himself from the vote citing a potential conflict of interest due to his current position on the Board of the Ruidoso Chamber of Commerce.

Vote: Motion passed (summary: Yes = 4, No = 0, Abstain = 1).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Willard.

Abstain: Commissioner Draper.

14. Resolution 2015-07 Amending Resolution 2014-37 NMDOT Cooperative Road Programs and Approval of 2015-2016 CAP/COOP/School Bus Agreements

Ms. Taylor stated the New Mexico Department of Transportation was awarding funding for the County projects approved at the February Regular Meeting by Adoption of Resolution 2014-37. Ms. Taylor stated Resolution 2015-07 amended the prior resolution for further processing of funds. Ms. Taylor also provided for consideration separate agreements for the School Bus Route Project; the Coop Project; and the CAP project.

Motion: Approve the agreements and adopt Resolution 2015-07, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart noted the contribution amounts due from the State and County were amended in the new Resolution. Ms. Taylor reported the prior approval in February was a preliminary dollar amount based on estimated costs. Ms. Taylor stated when the State returned the agreements for approval costs were refined.

Commissioner Stewart commented on the increased maintenance burden due to the addition of any paved road in the County.

Chair Stone questioned how the County would maintain the road once paved. Carl Palmer, Road Superintendent explained the road would have a chip seal finish. Mr. Palmer discussed the maintenance needs of this and other chip sealed roads in the County and requested consideration of the acquisition of additional equipment.

Commissioner Stewart requested the Manager and Road Superintendent develop a five year plan for maintenance of roads and to address the concerns expressed by citizens.

Ms. Taylor expressed support for development of a long term plan to address citizen concerns and to conduct routine maintenance.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Chair Stone, Commissioner Stewart, Commissioner Willard.

No: Commissioner Allen, Commissioner Draper.

SEE EXHIBIT B: Copy of Resolution 2015-07 is attached hereto in reference thereto made a part hereof.

15. Resolution 2015-05 Final Infrastructure Capital Improvement Plan (ICIP) FY 2017-2021 for submission to the State - Deadline September 2, 2015

Ms. Taylor presented the ICIP list for consideration and requested assistance in identification of top priorities for 2017. Ms. Taylor stated proposed 2017 projects included: Expand Detention Center, Expand White Oaks Fire Station, Renovate Lincoln County Medical Center, and Replace Heating/Colling Unit Ruidoso Health Center.

Chair Stone expressed concern about the lack of federal inmates being housed at the Detention Center and the associated loss of revenue. Chair Stone questioned what were the specific Detention Center issues restricting placement of those prisoners. Commissioner Draper expressed belief part of the problem was lack of staffing. Ms. Taylor stated staffing was an ongoing problem but also the lack of adequate medical facilities. Ms. Taylor suggested expanded space in the women's area would also provide space for the improvement of medical facilities.

Commissioner Stewart recommended the LCMC renovation be divided into two phases for planning purposes. Ms. Taylor concurred and recommended two phases in 2017 and 2018.

Commissioner Stewart suggested adding the repaving of CAP/COOP/School Bus Routes at a cost of \$250,000 per year annually from 2017 to 2021.

Commissioner Draper suggested reclassification of the Replacement of Heating and Cooling Unit for the Ruidoso Public Health Office to a higher priority level. Commissioner Stewart concurred and reminded this request was to satisfy an "unfunded" state mandate.

Chair Stone expressed belief the expansion of the White Oaks Fire Station was a priority due to the lack of adequate storage for fire protection equipment.

Motion: Approve the ICIP to indicate: Priority 1 – Replace Heating/Colling Unit for Ruidoso Public Health Office; Priority 2 – Expand White Oaks Fire Station; Priority 3 – Expand Detention Center; Priority 4 – Lincoln County Medical Center Renovation, Priority 5 – Repaving County Roads; with remaining projects as previously prioritized; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Ms. Taylor recommended the Expansion of the Detention Center remain as a single phase project. There was a general consensus of agreement.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

16. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims

Scott Annala, Indigent Health Care Administrator informed the Legislative Finance Committee requested each County report on expenditures from County Indigent Health Care Funds. Mr. Annala stated he submitted the report which reflects the overall decline in expenditures for Indigent Claims. Mr. Annala informed he would attend a meeting of the Health and Human Services Legislative Committee in Roswell next week to hear the scheduled presentation of the NM Hospital Association. Mr. Annala stated Brent Ernest, Secretary of Health and Human Services was also scheduled to speak.

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 12 claims with 12 recommended for approval and none recommended for disapproval for a monthly authorization of \$23,719.32. Mr. Annala stated approval of the claims would result in a total approval to date of SCP/SNCP claims for Fiscal Year 2015-2016 of \$39,174 or a monthly average of \$19,587.

Mr. Annala presented the Indigent Health Care Payments request for the month and stated he processed 4 claims with 4 claims recommended for approval and none for disapproval for a total payment this month of \$7,437.64. Mr. Annala stated approval of the claims would result in a total expenditure to date for IHC claims for Fiscal Year 2015-2016 of \$13,636 or a monthly average of \$6,818. Mr. Annala stated based on the current monthly average he anticipated an annual expenditure of \$81,810 for this fiscal year.

Motion: Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT C: Copies of the Sole Community Provider and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

Chair Stone recessed the Regular Meeting at 11:59:34 AM and reconvened at 1:00:05 PM.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:01:30 PM.

20. Public Hearing to Consider Lincoln County Ordinance 2015-03 – An Ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing for Violation of the Ordinance; and Repealing Ordinance 2014-07.

Attorney Morel detailed the revisions and additions to the current Ordinance including the added definitions of "habitable", "residence", and "uninhabitable". Attorney Morel stated Section 5 (d) a section defining the County's authority to set residential fees was unchanged but noted any contractor identified through the proposed Request for Proposal (RFP) would retain the authority to set commercial fees.

Attorney Morel stated Section 7 defined the process for residents to obtain a "Waiver of the Solid Waste Collection Fee" by application for exemption as a landowner with at least 300 contiguous acres with adequate disposal sites or by proof of "un-inhabitability". Attorney Morel noted the proposed Ordinance provided for only these two exception procedures.

Commissioner Draper questioned who would have authority to grant waivers. Attorney Morel anticipated the County Manager would have the administrative authority to review waiver applications and make a determination of validity.

Commissioner Draper and Commissioner Stewart requested clarification on the language excluding the Alto Lakes Water and Sanitation District. Attorney Morel stated language in Section 8 which references water and sanitation districts provided for this exclusion but agreed to add definitive language to the preamble.

Terri Racher, Municipal Clerk for the Village of Corona expressed support for the addition of the definitions of habitable or uninhabitable. Ms. Racher discussed the current arrangement

between the Village of Corona and Greentree Solid Waste Authority (GSWA) whereby the Village provided services to residents in the unincorporated areas of the County due to the lack of services by GSWA to the area. Ms. Racher stated under the current arrangement the Village billed County residents for services provided.

Attorney Morel suggested this was a unique situation which necessitated a response to the Request for Proposals to determine whether services for the area were included by any respondent.

Linda Phillips, Solid Waste Billing Clerk informed currently when the Village of Corona notified the County they were billing a County resident for services in their area the account was deleted to avoid duplicate billing.

Attorney Morel suggested the Board of County Commissioners consider approving the current billing arrangement with Corona pending a response to the RFP. Attorney Morel expressed concern about creating a specific waiver for the situation as setting a precedence for other waiver requests.

Commissioner Stewart questioned the number of County residents receiving services and billing through the Village of Corona.

Ms. Racher estimated there were 50 to 75 County residents receiving bills from the Village of Corona.

Attorney Morel estimated the related loss of income to the County as approximately \$4,000 quarterly.

Receiving no further public comment, Chair Stone adjourned the Public Hearing and reconvened the Regular Meeting at 1:26:18 PM.

Motion: Adopt Ordinance 2015-03 as written and provide for administrative procedures to address payment for services by the Village of Corona, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Paul Baca, Assessor stated his staff would assist in development of procedures to determine whether a dwelling was habitable or uninhabitable. Mr. Baca stated in addition to examination of the premises staff would consider whether utilities were present at the site.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT D: Copy of Ordinance 2015-03 is attached hereto in reference thereto made a part hereof.

17. Manager's Report

- 1. Lincoln County Drug Court.** On July 28, 2015 the Honorable James W. Counts, Chief Judge of the Twelfth Judicial District announced his decision to close down the Juvenile Drug Court in Lincoln County. Judge Counts quoted a number of statistics that are in dispute by individuals supporting the continuation of the Juvenile Drug Court. Judge Counts also cited the upcoming appointment of Dan Bryant as the new Twelfth Judicial Judge for Lincoln County and suggested it was a burdensome responsibility for a new judge. The Manager contacted Mr. Bryant, the District Attorney and others who had expressed opposition to the discontinuance of this program. The Manager stated the Investiture Ceremony for the Honorable Daniel A. Bryant was set for August 28, 2015 in the ceremonial courtroom at the Lincoln County District Court.

Motion: Direct the Manager to write a letter of support for the Lincoln County Drug Court, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Willard stated the infrastructure for the Drug Court was well established in Lincoln County and expressed belief the data cited to support discontinuation of the program was incorrect.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

2. **Lincoln County Juvenile Justice Board (LCJJB).** The Manager reminded during the July Regular Meeting additional funds up to \$5000 were approved to provide the Lincoln County Juvenile Justice Board with liability insurance as required by New Mexico Children, Youth and Family Division. The Manager reported pending receipt of the policy at a cost of \$2,536.00, the County had received a Confirmation of Coverage. The Manager stated absent this policy the County would not receive the grant which was the mainstay of this critical program. The Manager provided copy of the LCJJB annual report for FY14-15 which indicated 155 youth were served by the various programs during the year. The Manager stated since the goals of the LCJJB included reducing youth delinquency recidivism and the diversion of youth from further involvement in the juvenile justice system, the LCJJB strongly supported the continuance of the Drug Court in Lincoln County.
3. **Multi-Jurisdictional Effort for Mitigation Planning.** As relayed last month, the Village of Ruidoso invited Lincoln County to participate in its proposed Multi-Jurisdictional Mitigation Plan. The Manager reported other participants included the City of Ruidoso Downs, Village of Capitan, Town of Carrizozo and Village of Corona. The Manager reported County representatives met with representatives from Ruidoso, Ruidoso Downs, and the NM Department of Homeland Security and Emergency Management on July 27, 2015. The Manager stated the County team expressed an interest in pursuing this joint plan with municipal governments in Lincoln County, as the County Mitigation Plan will expire at approximately the same time the new plan would commence. The Manager stated participation would result in significant cost savings in the re-development of the County Plan as well as enhance the County's partnership with our neighbors regarding forest health.
4. **PILT.** The Manager provided a summarization from Steve Kopelman, Executive Director for the New Mexico Association of Counties, of two Congressional bills introduced shortly before Congress began their summer recess.
 - S. 1925 (Heinrich): On August 4, 2015, Senator Martin Heinrich introduced S. 1925, a bill to extend the secure rural schools and community self-determination program and to make permanent the payment in lieu of taxes program and the land and water conservation fund. The bill was introduced with 14 Cosponsors.
 - H.R. 3257 (Meadows/Polis): On July 28, 2015, Representative Mark Meadows introduced H.R. 3257, the PILT and SRS Certainty Act. The bill was introduced with 3 cosponsors and would reauthorize the SRS program for 5 years and provide five years of funding for PILT at an annual level capped at \$450 million
5. **2016 Capital Outlay Project Application Workshops.** Hubert Quintana of South New Mexico Economic Development District (SNMEDD) notified local governments the organization would host Capital Outlay Project Application Workshops throughout August. The Manager stated County employees would attend the August 27, 2015 workshop in Ruidoso Downs.
6. **RFP for Solid Waste Collection.** The Manager reported work was progressing on the development of the Request for Proposals (RFP) with plans to issue the RFP by September 1, 2015 and to commence independent solid waste collection services for the County on January 1, 2015. The Manager stated prior to issuing the RFP, the County was attempting to resolve several key issues with GSWA. The Manager reported Commissioner Stewart requested the following items be place on the GSWA Agenda:
 - a. To continue to provide solid waste collection services to the County on a month-to-month basis until Lincoln County can complete their procurement process and contract for these services (anticipated to be through December 31st) at the existing terms under which it is currently providing services;
 - b. To provide the County with GSWA's list of assets used to provide services to Lincoln County including the type, age, and residual value of the equipment; and to provide terms for the transfer of this equipment to Lincoln County;

- c. To acknowledge Lincoln County's right, as a member of GSWA, to utilize the member disposal fee at the landfill once a Provider of Solid Waste Collection Services has been selected and contracted by the County.

The Manager stated additionally the County needed to meet with the Mayor, Village Manager and Attorney for the Village of Ruidoso to formally request an agreement with Lincoln County. The proposed agreement would allow the County's solid waste provider use of the VOR's transfer station under certain circumstances.

Motion: Direct the Manager to set a meeting with Village of Ruidoso representatives to discuss the potential use of the Village of Ruidoso Transfer Station, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

7. Building Project Updates

- Public Officials Building / Sheriff's Complex: The Manager reported work was complete with a walk-through inspection set for August 24, 2015 and a final inspection on August 31, 2015.
- Annex Building: The Manager reported work was complete and anticipated a walk-through inspection in the next week;
- Carrizozo Senior Center: The Manager noted the contract award was on the agenda for approval today and anticipated construction would commence once all contracts and contract requirements were completed.

8. Additional 2015 calendar items:

- August 17 - Picacho Community Meeting re: Power Outage: Manager reported the meeting was well attended and informative.
- August 19 - Multiline Pool Board Meeting - Santa Fe; Manager Taylor;
- August 26 - Southeast Regional Transportation Planning Organization (SERTPO); Commissioner Draper;
- August 27 - 2016 Capital Outlay Project Application Workshops;
- August 28 - Investiture Ceremony for the Honorable Daniel A. Bryant; Ceremonial Courtroom
- September 2 - ICIP Filing Deadline
- September 8 - Special Commission Meeting to Impose Property Tax Rates
- September 15 - Commission Meeting;
- September 21 - 24 - Auditors in the House
- November 11 - Groundbreaking Ceremony - Ft. Stanton Veteran's Cemetery

9. Departmental Updates:

The Manager stated throughout the months of July and August, County employees were plagued with personal and family illnesses and losses of loved ones. The comradery and professionalism of the County team resulted efforts to cover all the duties of those absent in a manner which ensured County obligations were met. Hat's off to the County team of employees and public officials.

The Manager reported Carl Bartley, Fire Chief of Bonito Volunteer Fire Department had sent an email praising the Office of Emergency Services, particularly Aron Griewahl, for their preparing for the Department's ISO review. Chief Bartley stated Aron prepared most everything the inspector wanted in very professional binders complete with labeling and tabs for easy reference. The Manager extended thanks to Joe Kenmore, Spencer Baldwin and Aron Griewahl for their excellent service in preparing the various County fire stations for ISO rating inspections.

The Manager also reported Mickie Howard was offered and accepted the position of Sierra County Dispatch Director. The Manager noted Ms. Howard serving as the County's Asset Manager had worked diligently to resolve operational and audit issues. Ms. Howard expressed appreciation for her eleven years of employment with Lincoln County beginning with the Sheriff's Department and currently in the Manager's office.

Commissioner Stewart questioned the Manager about the reported hiring of an independent contractor for the Road Department.

The Manager explained the County had one blade operator assigned to each of six districts and due to the amount of road work it often took months to completely work the roads in one district. The Manager conceived the idea to hire an independent contractor to assist with these duties, subsequently met with NMAC to assure insurability for operation of County owned equipment, and requested the Attorney draft a contract. Ms. Taylor stated after a short trial with an independent contractor the contract was discontinued.

Commissioner Stewart requested any contract for services be brought to the Commission for prior approval.

- a. **Renee Montes, Senior Services Director** informed she received a Proclamation from Governor Susanna Martinez declaring September 21 - 25, 2015 as New Mexico End Hunger Week. Ms. Montes stated the Northcentral New Mexico Economic Development District in conjunction with the Non-Metro Area Agency on Aging were sponsoring the second annual End Hunger Summit in Albuquerque on September 23 and 24, 2015. Ms. Montes stated she would attend the summit which has a mission statement of building awareness of hunger in New Mexico by supporting underlying solutions which inspire self-sufficiency and community empowerment.
- b. **Billie Joe Guevara, Administrative Assistant/Human Resources** reported the new maintenance building was complete and offered to provide a tour to those interested.
- c. **Curt Temple, Planning Director** provided each Commissioner a copy of the newly published map books. Mr. Temple discussed the recent complaints received by his department regarding noxious weeds. Mr. Temple informed work continues on the FEMA Mitigation grant application which was pending receipt of the updated cost benefit analysis.
- d. **Carl Palmer, Road Superintendent** discussed current road problems associated with increased rainfall and high winds. Mr. Palmer stated since schools were now in session, blade operators were working to improve school bus routes and feeder routes for schools. Mr. Palmer commented on the additional work incurred by the Road Department during the past year as a result of weather and expressed support for a Road Task Force Committee to assist in planning.

Commissioner Stewart requested a monthly report to facilitate management by objective to include actual reporting of work including miles maintained, culverts cleaned, and other actions. Commissioner Stewart suggested in lieu of a committee the Manager and Road Superintendent develop a long range management plan and provide a monthly report.

Ms. Taylor requested she work with the Road Superintendent to develop a format for monthly reporting. Ms. Taylor suggested too much detail could prove burdensome to the Road Department but agreed to develop a comprehensive report.

Commissioner Draper reminded of prior discussions regarding the clogging of culverts and questioned the status of acquisition of equipment to assist with this problem.

Mr. Palmer stated the proposal to buy a particular piece of equipment for this purpose was rejected by the prior Board of County Commissioners due to the cost and requirement to provide year-round temperature controlled housing. Mr. Palmer commented on the nature of the debris clogging culverts and the current labor intensive process to clean. Mr. Palmer discussed other equipment alternatives. Mr. Palmer stated he was approached by a private contractor who cleans culverts professionally but questioned the affordability of this option.

Chair Stone expressed disappointment that no County Blade Operators were yet qualified as Operator IV's after a request was received to approve the higher level operator designation. Chair Stone suggested the Road Superintendent might obtain feedback from the residents served by operators to assist in determining whether an operator was eligible for the increase.

Chair Stone questioned the cost of cattle guards and commented on the damage incurred from road equipment. Chair Stone also questioned whether the Road Department screening equipment was operable.

Mr. Palmer stated after obtaining a rebuilt motor for the older piece of equipment, the operators continued to have trouble with the equipment due to age.

Chair Stone suggested to use material without screening resulted in additional work and discussed the need for updated road maintenance equipment.

- e. **Punkin Schlarb, Finance Director** reported her department had minimal issues except for the vacancy created by the resignation of Mickie Howard.

18. Approval of Resolution 2015-09 Authorizing Modifications to the Collective Bargaining Agreement between the County of Lincoln and the Lincoln County Deputy Sheriff's Association

Ms. Taylor stated the Lincoln County Deputy Sheriffs' Association, acting as the exclusive collective bargaining representative for the Deputy Sheriffs, requested consideration of three items during the annual renewal of the Agreement between the County of Lincoln and the Lincoln County Deputy Sheriffs' Association. Ms. Taylor stated on July 30, 2015 the President and Vice President of the Association requested a 3% COLA increase with the possibility of the 3% increase going towards the County's PERA contribution for each deputy; a request to change the contract effectual date for one physical year from date of approval rather than the current County Fiscal Year; and a request to change the date of negotiations from May and June to earlier in the fiscal year.

Ms. Taylor stated NMSA 10-11-5 provided authority for the County to provide additional contributions, termed "Picked-Up Contributions", to the employee portion of the PERA contribution. Ms. Taylor estimated the annual reoccurring cost of this request as \$43,188. Ms. Taylor stated the request to change the contract effectual date was problematic for budgeting purposes due to the potential for a contract extension beyond the twelve month contract period. Ms. Taylor advocated for the change to the dates for negotiation as beneficial.

Commissioner Stewart reminded the Sheriff and Undersheriff were not part of the collective bargaining unit and questioned if they would receive increased contributions.

Ms. Taylor stated while not a part of the bargaining unit, traditionally the Sheriff and Undersheriff received PERA contributions at the same rate as employees in the majority of counties. Ms. Taylor stated this was an option for consideration.

Commissioner Stewart questioned the request for the 3% COLA applied to PERA versus a salary increase.

Ms. Taylor reminded a salary increase affected employee benefit costs.

Commissioner Stewart objected to changing the employee contribution rate for the Sheriff and Undersheriff as a "potential salary increase" for an elected official.

Attorney Morel stated belief after discussion with PERA officials the additional contributions from the County were not considered a salary increase.

Motion: Adopt Resolution 2015-09 including the County Manager's recommended changes,
Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.
Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).
Yes: Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Willard.
No: Commissioner Stewart.

SEE EXHIBIT E: Copy of Resolution 2015-09 is attached hereto in reference thereto made a part hereof.

19. Resolution 2015-08 Sale of Used Emergency Services Equipment to Otero County

Ms. Taylor stated the purpose of the Resolution was to obtain approval to sell one Stryker Medical MX Pro Cot to Otero County. Ms. Taylor stated the estimated value of the seven year old cot was \$500.00 and a request was received from Otero County to purchase the Pro Cot for that price.

Motion: Adopt Resolution 2015-08, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Ms. Taylor suggested local Elected Officials conduct the required review on site upon receipt of the equipment for sale.

SEE EXHIBIT F: Copy of Resolution 2015-08 is attached hereto in reference thereto made a part hereof.

21. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

No action taken.

22. Consideration of Appointments and Removals from Boards/ Commissioners/ Committees:

- a. Tabled – Road Task Force Steering Committee
- b. Lodger's Tax Committee
- c. Road Review Advisory Committee

Motion: Reappoint Sue Hutchinson to the Lodgers Tax Committee and Lance Hale to the Road Review Advisory Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

13. 9:30 A.M.: Public Comment and Other Business from County Officials - continued

Jack Davis resident of 102 Vail Loop requested an opportunity to present additional information regarding his road complaint. Mr. Davis stated since the last meeting Commissioner Stewart and then separately the County Manager, Road Superintendent and Planning Director reviewed the property and his complaint. Mr. Davis stated the re-identification of the County right-of-way revealed his fence was in fact in the County right-of-way.

Mr. Davis provided additional photos of property damage which he stated had occurred after the County conducted some work on the area. Mr. Davis stated he had two independent contractors review the damage and both contractors identified the erosion of the ditch and the erosion of the pipe system to the fire hydrant as the main problems. Mr. Davis stated the independent contractors suggested cementing of the ditch to facilitate the flow of water down the appropriate water course and protect the fire suppression equipment. Mr. Davis stated he would grant an easement to the County to maintain a proper "waterway" across his property in order to prevent further damage to his property. Mr. Davis commented on the recent flow of water into his septic tank and discussed the implications of contamination from that flow. Mr. Davis stated he faced a moral and ethical dilemma as to whether to seek legal action but was present to formally request no further damage be allowed to occur to his property.

23. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report = *

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014.
2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.
3. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The case has been submitted to a panel of judges for decision and the County received Notice of Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was filed April 29, 2015.
4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.
5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.
6. *Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains, Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons received June 15, 2015. Removed to Federal Court July 7, 2015.
7. A. **Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015.
B. **Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015.

Tort Claims Notices Received or Threatened

2015

Cherry, Doris – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

McDaniel, Carl – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

UNM Hospital-Prins, Chad – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

Sehorn, Sean M. – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

Lavin, Erica L. and Rathgeber, Jack – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

Hanley, Constance – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate,

defamation of character, libel and abuse of process.

Capitan Iron Mine through A. Blair Dunn – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

Preston, DeAnna – Lincoln County Sheriff's Deputy – Threatened Litigation on April 22, 2015 through Attorney J. Robert Beauvais against the County of Lincoln in reference to Dep. Preston's Disciplinary Action Dispute.

Michael Barela and Jude Renney v. Brack Rains, Lincoln County Sheriff's Deputy, Lincoln County Sheriff Robert Shepperd, and the County of Lincoln – Tort Claim Notice received May 4, 2015 from Attorney Manuel Garcia/Hakanson Firm, alleging violation of defendants' 4th Amendment rights.

Culp, Susan v. LCMC/Lincoln County: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

Reyes, Roberto – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

Torres, Leopoldo: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

Wallace, Stephen: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

Rider, Edward and Moorhead, Brennon – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging Lincoln County Sheriffs' Deputies Rains and Christian destroyed personal property of claimants. See 2014 TCN alleging same.

Rodriguez, Victor – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

Turner, Bill – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging exposure to unsanitary conditions at Lincoln County Detention Center.

***Prudencio, Fabian and Corinne** – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

***Yates, Barbara** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

***Davis, Jack and Rema** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

2014

Ramos, Aaron – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

Ogden, John D – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at Lincoln County Detention Center on March 11, 2014.

Rounds, Christopher – Tort Claim Notice received June 4, 2014 alleging being held in Lincoln County Detention Center without being advised of his charges.

Herbert, Crystal – Tort Claim Notice received June 23, 2014 from Attorney Matthew Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration and Customs Enforcement charges.

Atwell, Stacey – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

McGarry, Sean – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

Ramos, Aaron – Tort Claim Notice received August 7, 2014 alleging lack of Due Process

for inmates at Lincoln County Detention Center.

Lambert, David and Bonnie - Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

Rider, Edward Allen and Moorhead, Brennon - Tort Claim Notice received Oct. 20, 2014 by Attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers destroyed items in a home.

Caughron, Brittany and Anderson, Amie - Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8th Amendment Rights.

Ryen, Allen - Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

Inmate Group - Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

McMurray, Cody - Tort Claim Notice received Nov. 6, 2014 by Attorney W. Chris Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center.

Caughron, Brittany and Anderson, Amie - Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

Inmate Group - Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Long, Cameron - Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

McClarnon, Brian - Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

Diana Martwick, 12th Judicial District Attorney - Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

Inmate Group - Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

2013

Allen, Katherine Elizabeth - Notice of Tort Claim received Sept. 12, 2013 from Katherine Allen against Lincoln County Detention Center for alleged injuries sustained during transport.

Harrisburg Documents - Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Action: Approve, Moved by Commissioner Draper, Seconded by Chair Stone.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:04:48 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:19:19 PM.

Commissioner Stewart attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

24. County Road Damage Updates: Discussion and Possible Action

Attorney Morel reminded both claims for property damage were forwarded to the County's Insurance Authority to determine their validity. Attorney Morel informed the New Mexico Association of Counties (NMAC) would hire an expert to conduct a study of water flow from the Little Bear Fire burn scar relative to the claims. Attorney Morel stated other right of way improvements were identified for County action pending a response from NMAC. Attorney Morel stated once results were received on the flow study the County would provide an additional response.

15. Resolution 2015-05 Final Infrastructure Capital Improvement Plan (ICIP) FY 2017-2021 for submission to the State - Deadline September 2, 2015 - continued

Ms. Taylor requested the Board of Commissioners reconsider the adoption of the ICIP Plan as approved by prior action. Ms. Taylor stated Renee Montes, Director of Senior Services had requested additional projects for senior facilities be included on the County's ICIP. Ms. Taylor stated the requested additions were for Senior Center Program Wide Equipment; Program Wide

Rehabilitation Work; and Program Wide Building Updates. Ms. Taylor informed although Capital Outlay requests for senior services were funded through a separate Legislative process from other County ICIP projects, the projects were still required to appear on an individual county's ICIP.

Motion: Reconsider approval of the ICIP for FY 2017-2021, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Motion: Amend the ICIP for FY 2017-2021 to include: Priority 6 – Senior Center Program Wide Equipment; Priority 7 – Senior Center Program Wide Rehabilitation Work; and Priority 8 – Senior Center Wide Building Updates; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

25. Signing of Official Documents

26. Next meetings:

September 8, 2015 – Special Commission Meeting
September 15, 2015 - Regular Commission Meeting

27. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 4:28:11 PM.

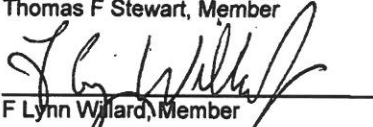
County of Lincoln
Board of County Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


F Lynn Willard, Member

ATTEST:


Rhonda Burrows, County Clerk

September 15, 2015
Date Approved

